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STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			EXAMINER DURAN, ARTHUR D	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

09/788,486

Applicant(s)

SAZAWA ET AL.

Examiner

Arthur Duran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 and 26-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23, 26-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Claims 1-23, 26-28 have been examined.

#### ***Response to Amendment***

2. The Amendment filed on 6/4/07 is insufficient to overcome the prior rejection.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-23 and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lokuge (2006/0122917) in view of Kjallstrom (2002/0010655).

Claim 1, 3-11, 13-23, 26 and 27 and 28: Lokuge discloses a method, medium for managing an imaginary store on a network.

Lokuge disclose adjusting or modifying display of an image of a product in accordance with a keyword extracted during a chat (Applicant's claims 1, 11, 18 and 21-23) and providing first and second display of the product (Applicant's claim 26) or that the key word is searched from the content of the client's chat and an advertisement list and product data corresponding to the key word and client data are combined is prepared (Applicant's claim 7) or modifying information of a product presented to the user without requiring input of said specified

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salesperson and the user participating in the chat based on keyword extracted during the chat (Applicant's claim 27).

Lokuge discloses adjusting or modifying display of an image of a product in accordance with a keyword extracted during a chat and providing first and second display of the product or that the key word is searched from the content of the client's chat and an advertisement list and product data corresponding to the key word and client data are combined is prepared or modifying information of a product presented to the user without requiring input of said specified salesperson and the user participating in the chat based on keyword extracted during the chat. Lokuge discloses dynamically and/or automatically adjusting the display of products including which products are displayed in a virtual store based upon the interactions or actions of a user in a virtual store including the interactions based communications/discussions/chat (Figures 2, 3, 4, 5, 6, 7 and the below citations):

“[0056] According to a specific embodiment, the technique of the present invention also allows for dynamic space generation of product displays in real-time. According to one implementation, dynamic space generation may include creating customized product layouts of virtual floor spaces in real-time based on specific criteria such as, for example, user preferences, inventory levels, special promotions, etc. Customers may also impact the layout and generation of floor spaces based on their interaction and/or shopping history with the electronic commerce system.

[0034] Additionally, as described in greater detail below, characters and/or symbols may be used to visually represent each or a selected portion of the on-line customers who are currently shopping or browsing the virtual store web space. The location of the other on-line customers may be visually displayed to a user, thereby enhancing the user's on-line shopping experience. According to one implementation, the user may choose to interact (e.g. chat or speak) with other near by on-line shoppers in order to obtain, for example, informal advice, product reviews, etc. The spatial context of such interactions enable users to obtain contextually relevant information from other on-line users in real-time. For example, a user who is browsing in the digital camera department portion of the virtual store web space may see that other on-line customers are also browsing the digital camera department portion of the

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virtual store web space, and may choose to ask one or more of these other on-line customers for product reviews or other recommendations relating to digital cameras.

[0056] According to a specific embodiment, the technique of the present invention also allows for dynamic space generation of product displays in real-time. According to one implementation, dynamic space generation may include creating customized product layouts of virtual floor spaces in real-time based on specific criteria such as, for example, user preferences, inventory levels, special promotions, etc. Customers may also impact the layout and generation of floor spaces based on their interaction and/or shopping history with the electronic commerce system.

[0060] Additionally, the user tracking information may be logged and processed in order to provide historical views of the products which each user or customer has viewed, either during the current shopping session, and/or previous shopping sessions. According to a specific embodiment, the reporting capabilities of the present invention keep track of all customer interaction behaviors, and summarizes results for subsequent viewing.

[0066] According to one implementation, a sales agent employed by the on-line merchant may monitor the customer activity within all or a designated portion of the virtual floor space, and offer real-time sales assistance to customers located in congested regions of the floor space. For example, in one embodiment, a sales agent may see, in real-time, that region 520a and relatively congested with customer activity, and in response, may broadcast a chat message, in real-time, to each of the customers within region 520a, offering to assist the customer, if he or she desires.

[0070] Another problem with conventional electronic commerce techniques relates to restricted capabilities for guided and/or automated sales processes. Typically, conventional models for on-line shopping are based on a one-to-one sales model, wherein, a given on-line sales agent can communicate (e.g. via telephone or "chat") with a single customer at a time to resolve any problems that customer may have. While this model works well for one-to-one interaction, it does not support a flexible methodology for one-to-many sales and customer service interaction.

[0071] The technique of the present invention provides a solution for enabling on-line merchants to provide enhanced capabilities for guided and/or automated sales processes. For example, according to a specific embodiment, sales and/or customer service agents may be provided with the ability to implement one-to-many type interactions with customers using a guided tour feature of the present invention. According to one implementation, the guided tour feature of the present invention enables an entity (e.g. sales agent, customer service agent, automated agent, customer, etc.) to guide one or more customers through the virtual floor space, wherein the location of each customer's proxy is temporarily controlled by the entity leading the tour. As each customer is guided through the tour, the display in each customer's browser window will

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change as that customer's proxy location is moved. Tours may be scheduled at stipulated times, or on an "as needed" basis. According to different embodiment, the tours may be statically configured along predetermined paths, or may be dynamically generated in real-time based on customer feedback, for example. Additionally, the members of the tour group may be guided simultaneously to the same locations in the tour, or alternatively, different members of the tour group may be allowed to be at different stages in the tour at any given time.

[0072] The technique of the present invention may also be configured to implement automated or "bot-guided" tours. In one implementation, such tours may be fully automated to be executed by programmable, automated agents (herein referred to as "bots"). According to a specific embodiment, automated tours may be created within the electronic commerce platform of the present invention by generating "bot-proxies" that are controlled by a program instead of a real person. According to a specific implementation, the bot-proxies and their behavior may be configured to resemble that of a real person to give the impression to the customer(s) that their interacting with a real person. This is shown, for example, in FIG. 7 of the drawings.

[0073] FIG. 7 shows an example of a bot-proxy 702 in accordance with a specific embodiment of the present invention. As shown in the example of FIG. 7, the bot-proxy 702 is represented as a proxy much like a sales person would be represented. The communication portion 704 corresponds to a narration or message by the sales person or bot, and may include textual, audio and/or video information which is displayed to the customer. A program may be used to control the location of the bot-proxy, as well as the communications from the bot-proxy to the customer(s). In one implementation, such communications may resemble ordinary sentences similar to those which may be generated by a real person assisting the customer(s). In a specific embodiment, movements and text messages may be generated by the program and sent to a spatial chat server, which forwards them as necessary to nearby users in the landscape to give the appearance of another customer or agent in the virtual floor space.

[0074] According to specific embodiment, customers make elect to join a bot-guided tour by clicking on an appropriate symbol or link (herein referred to as a "follow me" link) displayed in the customer's browser window. In specific embodiments where a bot-proxy is programmed to follow a preprogrammed path, and provides uses a "follow me" link to join the tour, the bot-proxy can lead members of the tour on a "tour" of the virtual store. As the bot moves around the virtual space, those customers who have elected to join the tour by clicking on the "follow me" link will have their locations and screens automatically synchronized with the tour leader. Additionally, according to a specific implementation, the location of the tour leader's proxy may be broadcast to nearby customers, including, if desired, customers who are not members of the tour.

[0076] In at least one implementation, a bot may be configured to respond to

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input from customers or tour members. For example, if a customer submits a specific request to the bot, (e.g., "Where are the shoes?"), the bot may be configured to dynamically generate and display an appropriate response to the requesting customer (based, for example, on a contextual and/or content analysis of the customer's request) and/or guide the requesting customer's proxy to appropriate locations within the virtual store."

Also, note in Lokuge that the product displays can be dynamically generated based on user interactions and that user interactions can include chat that is tracked for contextual and/or content analysis. Also, note in Lokuge that different features of products, product styles, and product categories ('soccer mom', 'girl next door') can be displayed (Figure 4 and Figure 5).

Hence, Lokuge renders obvious to one having ordinary skill in the art at the time the invention was made that Lokuge's dynamic product display in a virtual store based on user interaction and action can apply to user interaction where the user interaction can include chat. One would be motivated to do this because chat is a form of user interaction.

Lokuge further discloses a catalog and guided/chat shopping experience.

Lokuge discloses that there are numerous sales persons or sales staff ([58, 67, 81]). And, Lokuge discloses that the user can be shown which sales persons are available and also that the user can find particular sales persons (Fig. 6; [81]). Lokuge also discloses that a salesperson can be selected or presented in order to assist with shopping (Fig. 6; Fig. 7', 'Join me for a tour of the Solia digital studio', 'Tour: Start Stop'; [33]).

Hence, Lokuge renders obvious salesperson selecting display section.

Lokuge also renders obvious the product catalog display section of the top page of the imaginary store. Lokuge discloses online catalog shopping ([5, 27, 77]; Figures 1a, 1b, 2, 3).

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Hence, Lokuge also renders obvious the product catalog display section of the top page of the imaginary store.

Hence, Lokuge discloses both a catalog type shopping experience and a guide chat/salesperson type shopping experience. Hence, it is obvious that the user can be presented a catalog type shopping experience, or a salesperson/chat guided shopping experience, or that the chat/salesperson can be found or made available or presented as an assisting option before, at the same time, during, or after a catalog shopping experience. Examiner notes that changing in sequence of adding ingredients (MPEP 2144.04.IV) or rearrange of parts is obvious (MPEP 2144.04.VI). Hence, Lokuge renders obvious to one having ordinary skill in the art at the time the invention was made that Lokuge's catalog and guided/chat shopping experience can be offered at anytime in relation to each other.

Additionally, Lokuge discloses that there can be numerous sales persons ([32, 57, 71, 33]; claim 6). And, as noted in these citations and the citations above, Lokuge can receive help from these sales persons at any time. Also, note from claim 6 that one or than one sales agent can be provided to a user/shopper.

Also, Lokuge discloses the user requesting help from particular people or salespersons (Fig 6). Also, note in Lokuge that customer assistance/chat can be provided "on an "as needed" basis. . .or may be generated in real-time based on customer feedback" ([71]).

Also, note in Lokuge that a chat/tour can be requested by the user or that the user can catalog shop on his own (Figures 3 and Figure 7). Note in these figures that the user can, on his own, use the "store map" to catalog shop and select different areas/categories of products to display and look at. Or, at any time, the user can select the "Tour: Start" option and be assisted



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by a sales agent who can chat with the user. Also, note in Figure 7 how the user can catalog shop on his own or use the store map to further catalog shop or the user can select the "Tour: Start" option or the user can "Join me for a tour of the Solia digital studio".

Hence, there are numerous sales persons in Lokuge. The user can find a salesperson at any time or request a salespersons tour/chat at any time. Also, the user can catalog shop in Loguge. And, the user can be presented the option to catalog shop or take a salesperson guided tour/chat at the same time.

Hence, Lokuge renders obvious displaying a catalog shopping and sales agent assisted shopping options at the same time and also that there can be a plurality of salespersons.

Additionally, as noted above, Lokuge discloses displaying different products based on the key words from a chat ( citations above; and please particularly note Lokuge, [62]).

Lokuge does not explicitly disclose selecting an attribute object of a corresponding product on the basis of a key word in said chat.

However, Kjallstrom discloses selecting an attribute object of a corresponding product in real time on the basis of user or seller interest in the product ([33, 35, 36, 55]; particularly note [33]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Kjallstrom discloses selecting an attribute object of a corresponding product in real time on the basis of user or seller interest in the product to Lokuge's dynamic product display in a virtual store based on user interaction and action where the user interaction can include chat. One would have been motivated to do this in order to better present products in a manner of interest to users.

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Claim 2, 12: Please see the above rejection. Also, in regards to claims 2, 12, Lokuge discloses that a user can find a particular customer service agent or sales agent/person at any time (Fig. 6; [81]). Hence, Lokuge's client can set the chat channel by selecting/finding the sales person as a priority. Lokuge also discloses that there are different salesperson for different products/departments and that the salesperson can be presented based upon what product/department the user was looking at/interested in ([67, 33, 34]). Hence, Lokuge's client can set the chat channel with the salesperson based on what product/department/section the user was in.

#### ***Response to Arguments***

4. Applicant's arguments with respect to the claims have been considered but are not considered persuasive.

On page 10 of the Applicant's Remarks dated 6/4/2007, Applicant states that the combination of the prior art does not render obvious, "Lokuge and Kiallstrom, alone or in combination, do not teach or suggest the above discussed features including extracting "a key word" from a chat (i.e., without requiring the user to request changes to separate portions of the image) and using the keyword to modify the image of the product (see above discussion of independent claims)."

However, Examiner notes that while specific references were made to the prior art, it is actually also the prior art in its entirety and the combination of the prior art in its entirety that is being referred to. Also, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413,

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208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

And, it must be presumed that the artisan knows something about the art apart from what the references disclose. *In re Jacobv*, 309 F.2d 513, 135 USPQ 317 (CCPA 1962). The problem cannot be approached on the basis that artisans would only know what they read in references; such artisans must be presumed to know something about the art apart from what the references disclose. *In re Jacoby*. Also, the conclusion of obviousness may be made from common knowledge and common sense of a person of ordinary skill in the art without any specific hint of suggestion a particular reference. *In re Bozek*, 416 F.2d 1385, USPQ 545 (CCPA 1969). And, every reference relies to some extent on knowledge or persons skilled in the art to complement that which is disclosed therein. *In re Bode*, 550 F.2d 656, USPQ 12 (CCPA 1977).

Also, when there is a design need or market pressure to solve a problem and there are a finite number of identified, predictable solutions, a person of ordinary skill has good reason to pursue the known options within his or her technical grasp. If this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense. In that instance the fact that a combination was obvious to try might show that it was obvious under §103.

And, if a person of ordinary skill in the art can implement a predictable variation, and would see the benefit of doing so, §103 likely bars its patentability. Moreover, if a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual

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application is beyond that person's skill. *KSR Int'l Co. v. Teleflex, Inc.*, No 04-1350 (U.S. Apr. 30, 2007).

And, in this case, please see the rejection of the independent claims above. Please note the citations to Figures and Paragraphs. And, note in Lokuge that the product displays can be dynamically generated based on user interactions and that user interactions can include chat that is tracked for contextual and/or content analysis. Hence, Lokuge renders obvious to one having ordinary skill in the art at the time the invention was made that Lokuge's dynamic product display in a virtual store based on user interaction and action can apply to user interaction where the user interaction can include chat. One would be motivated to do this because chat is a form of user interaction.

Also, please note the citation above ([76]) where the product display is automatically, dynamically changed based on a key word in the user's chat. For example, the user chat's the word "shoe" and the shoe department with the products "shoe" is displayed. Also, note from the citations above that all the user's interactions and actions can be tracked and monitored so that dynamic, automatic displays are made in real-time that are of relevance.

Examiner further notes that it is the Applicant's claims as stated in the Applicant's claims that are being rejected with the prior art. Also, although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). And, Examiner notes that claims are given their broadest reasonable construction. See *In re Hyatt*, 211 F.3d 1367, 54 USPQ2d 1664 (Fed. Cir. 2000).

### *Conclusion*

The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

a) Kusumoto (2005/0216346) discloses chat, virtual reality and product display;

b) Thompson (2004/0068485) further discloses dynamic advertising presentation related to interactions related to products:

["0110] Audio/Visual Presentations can also be included as an integral part of the exemplary system. Sound, video or both media combined can be utilized to present, promote or enhance the client company and its products. Examples of this kind of information include videos of manufacturing processes, product installation procedures, or sales and marketing presentations. Audio information can include theme music or sound tracks, which complement video information.

[0108] Referring to FIG. 24, this exemplary embodiment of the invention can include a Product Line Review function. The Product Line Review offers manufacturer and product line information 88, as well as general industry information 88, as it relates to the manufacturer's product line. Product Line Review is typically derived from each manufacturer's sales and marketing catalog(s), promotional brochures and other printed materials. Product Line Review can include full color or black & white scanned images 90, product features and benefits (as text descriptions), line drawings, technical illustrations and other appropriate product information.

[0120] The portal provides the central services for its participating members, providing news, advertisements, means for communication between members. The portal also provides a member-to-member commerce channel providing product offerings, configuration tools, ordering and purchasing mechanisms. Fees can be charged for membership to the portal, advertisements viewed or displayed on the portal, or as part of any member-to-member commerce transactions.

[0121] The portal can be an authoritative point of information about a given product market or focused to a specific group within the vertical market. The software package creating the portal can be a suite of Web applications enabling the creation of e-commerce communities for business customers. Virtual communities can be created through this portal where customers within the vertical market can shop, learn, play and explore common interests. This portal can incorporate the configuration-related system described heretofore. The portal can be accessible to those with market-specific expertise, and in return for membership in the portal, the participants can provide much of the content themselves in the form of advertising, news, discussions, sales, etc. as shown in FIG. 30.

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20. In an Internet portal for use by manufacturers, distributors, dealers, retailers, and retail customers as participants in a vertical market, a method of distributing news, product information, advertising, discussion forums, and e-commerce transactions, wherein participants gain access to a configuration system that allows users to configure products and services as projects such that projects so configured are automatically transmitted to selected participants for bid, quote, sales, and ordering of the configured projects.”

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Duran whose telephone number is (571) 272-6718. The examiner can normally be reached on Mon- Fri, 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Arthur Duran  
Primary Examiner  
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6/14/2007